



This Won't Last Forever

Reframing Perspectives on Drug Sellers

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Even for those who live within the world of unregulated drug markets, it is likely that drug sellers aren't what you likely think they are. For those who don't live in that world, it's a near certainty that they aren't what you think they are. Our collective perceptions about drugs and drug markets have been distorted by decades of taxpayer-funded drug war propaganda and sensationalist Hollywood misinformation. Dating back to the earliest days of drug war propaganda, higher-level drug sellers have been portrayed as purely profit-driven, immoral, or downright evil. Lower-level sellers are often portrayed as having been "tricked" or "trapped" by these higher level sellers through their own "addiction" to these substances.

For many currently illicit substances, the raw base materials are cultivated in very rural locations by subsistence farmers in some of the planet's most destitute areas. Since the price of these raw materials is a tiny fraction of the ultimate retail value, sophisticated and professional production and transportation networks almost always arise to meet the needs of refining these raw materials into the desired drugs, and to transport those drugs to more wealthy areas. However, it would be impossible for these large, multinational organizations to perform the day-to-day minutia of retail sales. For drugs which are produced domestically (or in industrialized, wealthy nations), these networks often don't exist in the way that they do for traditional so-called "drugs of abuse."

At all levels, drug sellers are largely rational economic actors who have looked at the risks and benefits of distributing substances and made a reasoned or principled choice to engage in the behavior that they do.¹ Although some academic researchers claim that only a small fraction of users ever engage in social distribution because of the nature of prohibition and the fear of criminal prosecution, this is unlikely to be true,² especially since countries with lower risk of prosecution and higher trust of aca-

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¹ Dickinson T. Non-violent threats and promises among closed-market drug dealers. *Int J Drug Policy*. 2017 Apr;42:7-14. doi: 10.1016/j.drugpo.2016.12.005. Epub 2017 Jan 16. PMID: 28104571.

² Golub A, Johnson BD. Substance use progression and hard drug abuse in inner-city New York. In: Kandel Denise B., editor. *Stages and Pathways of Involvement in Drug Use: Examining the Gateway Hypothesis*. New York: Cambridge University Press; 2002.

demic studies have shown that social supply is the norm.³ At the retail level for the vast majority of substances, the bulk of so-called “drug sellers” are actually engaged in social supply, simply connecting their friends who don’t have access to substances they are trying to find.⁴

Since so many of these small distributors are not relying on drug sales for an income, they are, by definition, not “professional” sellers. Because of this, their knowledge of the substances they are distributing may be limited, and their understanding of the risks of prohibition created misrepresentation and adulteration may be insubstantial as well, although surely both of these factors vary widely. However, this “amateur” distribution model does mean that the principles of individual harm reduction and drug checking are incredibly important, even as the research on the role of people who distribute substances as harm reductionists continues to grow.⁵ The simple reality is, when drugs are sold in unregulated markets, there is no way for anyone to know what kind of misrepresentations or adulterants may be present in any given substance short of personally testing, and this makes it difficult for consumers to make informed decisions about the true risk profile of that substance.

Perhaps most importantly, this nuanced understanding of how substances are distributed means that both the traditional prohibition-driven models and the “decriminalize” movements are treating “drug sales” as something they are not, and both must be adjusted to create legal, safe supply for those seeking to obtain any given drug.

Under prohibition, all sales are treated in similar ways, and the legal penalties can be incredibly severe. In many jurisdictions, a state is not even required to prove that *any* money changed hands for a charge of distribution, which means many people simply sharing substances with their friends for a financial loss can be charged with distribution if they are caught doing so. With mandatory minimum sentencing “guidelines,” judges are often banned from even considering mitigating factors in regards to how long a defendant is sentenced, so that even if the judge and jury fully know that a person was engaged in gifting, and not in sales, they must still charge, convict, and sentence them as if they were. For the fiscal year of 2021, federal drug charges represented a total of 31.3% of all federal charges, the largest single category of charges. Ignoring the next most common federal charges (which are for immigration violations), drug charges represent more federal charges than fraud, theft,

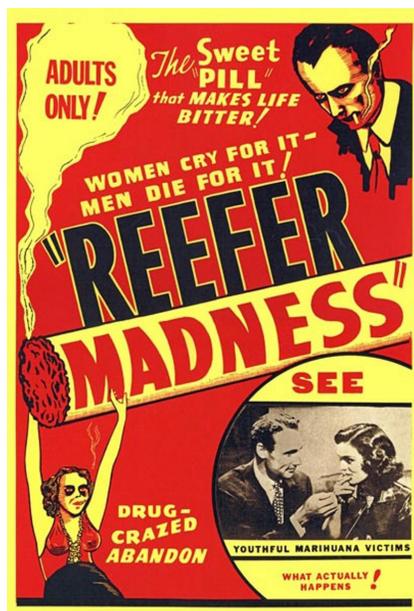
embezzlement, robbery, money laundering, sexual abuse, child pornography, and firearms charges combined.⁶ Clearly, too many people are being charged with “sales,” and the law needs to change to reflect the reality of social sharing, gifting, and small-scale distribution.

Even under many of the “decriminalization” initiatives, the sales of substances are not being addressed (and a big thanks to those in the movement who ARE including social sharing in these ballot measures). This oversight must be addressed by all of those in the decriminalization movement, and any move

to reduce criminal penalties for drug use must speak honestly about the reality of how substances are sold.

Because so many of the harms attributed to drugs are actually caused by prohibition, the best way of addressing those harms is not through simply tinkering around the edges of the drug war, but by dismantling prohibition itself as a system. Combined with the overcharging of social sellers with “drug distribution,” we have created an unsustainable mass arrest and incarceration machine which is targeting too many with severe charges resulting in long periods of incarceration based on misunderstandings in the realities of distribution. When drugs are legal, they can be

regulated for safety, and making sure this distribution model is not for profit would be trivial. Drugs that have been tested and approved can then be sold without fear of misrepresentation or adulteration, people experiencing chaotic use can seek help without fear of incarceration, and social distribution and gifting can be reintegrated into our society in the same way that sharing a bottle of home brew is today.



³ Ross Coomber, Leah Moyle & Nigel South (2016) The normalisation of drug supply: The social supply of drugs as the “other side” of the history of normalisation, *Drugs: Education, Prevention and Policy*, 23:3, 255-263

⁴ Crawford, David. 2020. “Ambivalent Economics of Middle-Class Drug Dealers.” *Anthropology News* website, March 5, 2020. DOI: 10.1111/AN.1369

⁵ Bardwell G, Boyd J, Arredondo J, McNeil R, Kerr T. Trusting the source: The potential role of drug dealers in reducing drug-related harms via drug checking. *Drug Alcohol Depend*. 2019 May 1;198:1-6. doi: 10.1016/j.drugalcdep.2019.01.035. Epub 2019 Mar 6. PMID: 30856370; PMCID: PMC6467706.

⁶ Davis, Neal. “Drug Trafficking Tops Federal Crime Sentencing.” *Neal Davis Blog*, 29 Mar. 2022, <https://www.nealdavislaw.com/blog/drug-crimes/drug-trafficking-federal-sentencing>.